IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5753 of 2006
With
SPECIAL CIVIL APPLICATION No. 5803 of 2006
With
SPECIAL CIVIL APPLICATION No. 5922 of 2006
To
SPECIAL CIVIL APPLICATION No. 5972 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE J.M.PANCHAL
AND
HONOURABLE MR.JUSTICE BANKIM.N.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment?

2 To be referred to the Reporter or not?

3 Whether Their Lordships wish to see the fair copy of the judgment?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge?

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BHAVNAGAR DISTRICT CO-OPERATI-VE BANK LTD & ORS. - Petitioners
Versus
STATE OF GUJARAT & ORS. - Respondents

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Appearance :

MR ND NANAVAI, Sr. Counsel WITH MR BM MANGUKIYA	for Petitioners in SCA No.5753/2006 and for Respondent No.3 in SCA Nos.5803/06 with SCA Nos.5922/06 to 5972/06.
MR BS PATEL	for Petitioners SCA Nos.5803/06 with SCA Nos.5922/06 to 5972/06.
MR MUKESH A. PATEL, AGP	for Respondent Nos.1 to 4 in SCA No.5753 of 2006 and Respondent Nos.1 & 2 in SCA Nos.5803/06 with SCA Nos.5922/06 to 5972/06.
MR SHIRISH JOSHI	for Respondent No.5 in SCA No.5753/2006 and Respondent No.4 in SCA Nos.5803/06 with SCA Nos.5922/06 to 5972/06.

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL
and
HONOURABLE MR.JUSTICE BANKIM.N.MEHTA

Date : 05-10/04/2006

ORAL JUDGMENT

(Per : MR.JUSTICE J.M.PANCHAL)

In these petitions, pertaining to the election to Bhavnagar District Cooperative Bank Limited, which is a Federal-cum-Specified Cooperative Society, common questions of facts and law have been raised for consideration of this Court and, therefore, they are being decided by this common judgment.

2. In the abovenumbered petitions, filed under Article 226 of the Constitution, the common prayer made is, to issue a writ of mandamus or a writ of certiorari or any other appropriate writ or direction, to set aside the order dated March 27, 2006 passed by the Election Officer of Specified Cooperative Societies-cum-Deputy Collector, Bhavnagar, by which Mr.Jivrajbhai Nagjibhai Sutariya of Village Piparadi, Taluka: Shihore, District: Bhavnagar, is informed that the amendment in the bye-laws of Bhavnagar District Cooperative Bank Limited (“the Specified Society” for short) to enable the cooperative societies situate in

Savarkundla Revenue Taluka as its members to exercise right of vote was approved in the General Meeting of the Specified Society on October 26, 2005 and as the societies situate within Savarkundla Revenue Taluka were not the members of the Specified Society on March 31, 2005 nor entitled to exercise right of vote, their names are deleted from the Voters' List of the Specified Society. Other ancillary reliefs are also claimed based on the abovereferredto main prayer, but it is not necessary to refer to them in detail.

3. In the year 1997, the Revenue Department of the State of Gujarat bifurcated certain districts and talukas by creating new districts and new talukas. Under the aforesaid bifurcation, Savarkundla Taluka now forms part of Amreli Revenue District. Prior to the aforesaid bifurcation, all the primary cooperative societies situate in Savarkundla Taluka were the members of the Specified Society and after the bifurcation, they continued their normal business with the said specified society. However, in **Siddhpur Taluka Cooperative Purchase & Sales Union & Ors. vs. State of Gujarat & Ors., 2002(2) G.L.R. 1357,** the Division Bench of this Court took the view that the structure of cooperative societies from the State level down to Taluka level is based on the revenue areas and a

District and Taluka Cooperative Society is required to have its membership within the District and Taluka as a result of which if a society as a member or an individual as member ceases to belong to a Revenue Taluka, they cannot claim right to vote or contest as member of that society in election of Federal Society of that Taluka unless bye-laws are amended to enable a society as a member or an individual as member of Revenue Taluka to exercise right of vote and contest from primary society to federal society. In view of the aforesaid decision of the Division Bench of this Court, the primary cooperative societies situate within Savarkundla Revenue Taluka were not entitled to participate and/or vote in the election to the Managing Committee of the Specified Society. Realising that on bifurcation of districts and talukas, the primary societies situate within Savarkundla Revenue Taluka had lost right to vote in the election to the Managing Committee of the Specified Society and that it is necessary to amend the bye-laws of the Specified Society to confer voting rights on the primary societies situate within Savarkundla Revenue Taluka, the Specified Society moved an amendment of its bye-laws, in its General Meeting, which was held on June 30, 2004. The proposed amendment was sent to the Registrar, Cooperative Societies, State of Gujarat, Gandhinagar, for registration

as required by Section 13 of the Gujarat Cooperative Societies Act, 1961 (“the Act” for short). The proposed amendment was registered by the Registrar, Cooperative Societies, vide order dated October 5, 2005. In the said order, it was stipulated that the amendment of the bye-laws registered by the Registrar, Cooperative Societies, State of Gujarat, Gandhinagar, would come into force after the amendments of the bye-laws were approved by the Specified Society, i.e. the Bank, in its General Board Meeting. Accordingly, the General Board Meeting of the Specified Society was held on October 26, 2005 wherein the amendments of the bye-laws were approved.

4. As Bhavnagar District Cooperative Bank Limited is a specified society within the meaning of the Act, the election to the Managing Committee of the said bank is regulated by the provisions of The Gujarat Specified Cooperative Societies Elections to Committees Rules, 1982 (“the Rules” for short). Rule 4, sub-rule (1) of the Rules, which is relevant for deciding these petitions, is as under:

> *“4(1) A provisional list of voters shall be prepared in Gujarati by every society for the year in which general election is due to be held. Persons who are members as on the date of drawing up the accounts of the year immediately preceding the year in which such election is due*

shall be included in the provisional list. If different constituencies are provided in the bye-laws, the names of voters shall be arranged constituency wise as laid down in the bye-laws."

The term of the Board of Directors of the Specified Society elected in the year 2002 expired on August 15, 2005. As provided by Rule 4 of the Rules, persons who are members as on the date of drawing up the accounts of the year immediately preceding the year in which such election is due, are entitled to be included in the provisional list of voters. Therefore, only those, who were members of the Specified Society as on March 31, 2005, were entitled to be included in the provisional list of voters. However, the Election Officer, i.e. respondent No.4, included the names of ninety-two primary cooperative societies situate within Savarkundla Revenue Taluka in the Voters' List of the Specified Society though the amendment of the bye-laws came into force with effect from October 26, 2005. Under the circumstances, Mr.Jivrajbhai Nagjibhai Sutariya, who is respondent No.5 in Special Civil Application No.5753 of 2006, lodged his objections with the Election Officer and requested the Election Officer to exclude the names of those primary societies situate within Savarkundla Revenue Taluka from the list of voters. The Election Officer took into consideration the objections raised by Mr.Sutariya as well as the legal

provisions, and has held, by order dated March 27, 2006, that as the amendment of the bye-laws of the Specified Society came into force with effect from October 26, 2005, the primary societies situate within Savarkundla Revenue Taluka whose names were included in the Voters' list be excluded, giving rise to abovenumbered petitions.

5. Mr.N.D.Nanavati, learned Senior Advocate appearing for the petitioners in Special Civil Application No.5753 of 2006, and Mr.B.S.Patel, learned counsel appearing for the petitioners in Special Civil Application No.5803 of 2006 and Special Civil Application Nos.5922 of 2006 to 5972 of 2006, contended that primary cooperative societies working under Savarkundla Revenue Taluka were the members of the Specified Society since inception and, therefore, their names could not have been excluded from the Voters' List of the Specified Society. It was argued that Section 28(3) of the Act provides that a society which has invested any part of its funds in the shares of another society, may appoint one of its members to vote on its behalf in the affairs of that other society, and accordingly such member shall have the right to vote on behalf of the first society and as the primary societies situate within Savarkundla Revenue Taluka have invested a part of their funds in the shares of the Specified Society

and are entitled to vote on their behalf in the affairs of the Specified Society, their names could not have been excluded from the Voters' List. According to the learned counsels for the petitioners, no cessation of memberships of the primary cooperative societies working within Savarkundla Revenue Taluka has taken place as contemplated by Section 26 of the Act and, therefore, those societies could not have been prevented from exercising voting rights as conferred on them by Section 28 of the Act. What was maintained by the learned counsels for the petitioners was that bifurcation of certain Districts and Talukas by creating new Districts and new Talukas does not affect the rights of the primary cooperative societies situate within Savarkundla Revenue Taluka to vote in the affairs of the Specified Society and, therefore, the impugned order passed by the Election Officer-cum-Deputy Collector, Bhavnagar, deserves to be set aside. It was pleaded that under the original bye-laws also, the primary cooperative societies working in Savarkundla Revenue Taluka were entitled to participate in the elections and elect their Directors and, therefore, such right, which was exercised from the beginning, could not have been taken away by the impugned order. It was maintained by the learned counsels for the petitioners that if the primary cooperative societies situate within Savarkundla Revenue

Taluka are not permitted to participate in the election to the Managing Committee of the Specified Society, they shall be without any representation, which is bound to affect their interest adversely and, therefore, the impugned order should be set aside. It was argued that Rule 6(2) of the Rules provides that every person making a claim or raising objections, shall do so by a separate petition and as Mr.Sutariya had not filed separate petitions against ninety-one primary cooperative societies working within Savarkundla Revenue Taluka, the application filed by him should not have been entertained by the Election Officer. Lastly, it was argued that the impugned order is not a speaking order and, therefore, the reliefs claimed in the petitions should be granted.

6. In reply to abovereferredto contentions raised on behalf of the petitioners, it was argued by Mr.Shirish J. Joshi, learned counsel for Mr.Sutariya, who had lodged objections under Rule 6(2) of the Rules, as well as by Mr.Mukesh A. Patel, learned Assistant Government Pleader appearing for the respondent Nos.1 to 4 in Special Civil Application No.5753 of 2006, that the impugned decision rendered by the Election Officer is perfectly in conformity with the principles laid down by the Division Bench of this Court rendered in **Siddhpur Taluka**

Cooperative Purchase & Sales Union & Ors. (supra) and, therefore, the petitions which lack merits should be dismissed. What was maintained by the learned counsels for the respondents in Special Civil Application No.5753 of 2006 was that by virtue of membership or as shareholder, a member validly admitted to a primary or federal society has right to get advantage of his membership in the trade and business of the society and also other rights as member to have business transactions with the society, but his rights in the society *qua* member to vote and contest are dependent upon his being a member (individual or society) residing or having its operation within a particular territorial jurisdiction of Revenue Taluka and, therefore, the decision rendered by the Election Officer should be upheld. It was argued that if a society as a member or an individual as member ceases to belong to a Revenue Taluka, it/he cannot claim right to vote or contest as a member of that society in election of Federal Society of that Taluka and, therefore, the reliefs claimed in the petitions should not be granted by this Court. It was argued that the provisions of Rule 6(2) of the Rules do not require that separate application should be filed against each primary cooperative society whose name is included in the Voters' List, and is sought to be excluded therefrom and, therefore, the order rendered by the

Election Officer cannot be regarded as bad in law. It was maintained that the order passed by the Election Officer is a speaking order wherein the reasons have been recorded for excluding the names of the primary cooperative societies situate within Savarkundla Revenue Taluka and, therefore, the said order is not liable to be set aside on the ground that it is not supported by reasons. The learned counsels for the respondents asserted that the issues raised in the petitions are squarely covered by the decision of the Division Bench of this Court rendered in **Siddhpur Taluka Cooperative Purchase & Sales Union & Ors. (supra)** and, therefore, the petitions should be dismissed.

7. This Court has heard Mr.N.D.Nanavati, learned Senior Advocate appearing for the petitioners in Special Civil Application No.5753 of 2006, as well as Mr.B.S.Patel, learned counsel appearing for the petitioners in Special Civil Application No.5803 of 2006 and Special Civil Application Nos.5922 of 2006 to 5972 of 2006, and Mr.Shirish J. Joshi, learned counsel appearing for the respondent No.5 as well as Mr.Mukesh A. Patel, learned Assistant Government Pleader appearing for the governmental authorities, at length and in great detail and also considered the documents forming part of the petitions.

8. In **Siddhpur Taluka Cooperative Purchase and Sales Union & Ors. (supra)**, under the bifurcation made by the Revenue Department of the State Government, a new District Patan was created carving out some villages from Mehsana District. The State Government also excluded some of the villages forming part of Siddhpur Revenue Taluka and included them in newly formed Unjha Taluka. As a result of this bifurcation, 27 primary societies affiliated to Siddhpur Taluka Cooperative Society fell within the territorial area of Unjha Taluka. The Election Officer-cum-Prant Officer of Patan Taluka issued two election programmes for completing the process of election separately for Siddhpur and Patan Taluka Cooperative Sale & Purchase Union Limited. The election programme commenced on December 21, 2001 in the case of Siddhpur and on December 11, 2001 in the case of Patan Taluka Cooperative Unions with the preparation of provisional Voters' Lists. The election was over with declaration of result on January 21, 2002 for Patan Cooperative Union and was to end on February 4, 2002 for Siddhpur Cooperative Union. The Taluka Sale and Purchase Cooperative Unions at Siddhpur and Patan are specified cooperative societies under Section 74C of the Act and the elections to these cooperative societies were required to be held in

accordance with the provisions contained in Sections 145A to 145Y under Chapter XIA of the Act and the Rules. The action taken by the Election Officer in excluding from the Voters' List 27 member cooperative societies out of total 65 member cooperative societies, which were affiliated to the Siddhpur Taluka Specified Cooperative Society, was challenged before the High Court in the writ petition filed under Article 226 of the Constitution. It was argued on behalf of the petitioners that merely on change of revenue areas of Patan and Siddhpur Talukas, the membership of the Federal Societies in those Talukas would not change unless the societies themselves amend their bye-laws under Section 13 of the Act and, therefore, 27 member cooperative societies, which were affiliated to Siddhpur Taluka Specified Cooperative Society could not have been excluded from the Voters' List. It was maintained before the Division Bench that 'Siddhpur Taluka' as used in the bye-laws should mean 'Siddhpur Taluka' as it existed prior to the year 1997, i.e. before areas of Taluka were changed and some parts of the Village with primary societies therein were excluded and, therefore, the names of the societies could not have been excluded from the Voters' List by the Election Officer. After surveying the scheme of the Act and the Rules, the Division Bench of this High Court has held in paragraphs

15, 17, 18 and 19 of the reported decision as under:

> “15. Having thus briefly surveyed the scheme of the Act on the provisions of the Act and the Rules mentioned above, what we discover is that the structure of the cooperative societies from State level down to Taluka level is based on the revenue areas. A District and Taluka cooperative society is required to have its membership within the District and Taluka. Elections to societies, federal or otherwise, are required to be conducted by the District Collector on the basis of the revenue areas of Taluka or District concerned. It is, therefore, not possible to accept the contention advanced on behalf of the petitioners that revenue area of Taluka or District has no relationship with the holding of elections to cooperative society of District or Taluka level. It is true that in the Gujarat Act, there are no parallel provisions as to be found in Section 18C of the Maharashtra Act to take care of the change in structure of cooperative societies in the event of change of area of Taluka or District. But for that reason alone, it cannot be held that under the Gujarat Act and the Rules framed thereunder, regardless of the change of the area of Taluka or District and without amending its bye-laws, a cooperative society of primary level can send its members for vote or election to a federal society at Taluka level when such societies do not fall within the revenue area of that Taluka. In the absence of a provision analogous to Section 18C of the Maharashtra Act, to enable its members to exercise right of vote and contest from primary societies to federal society, it is incumbent on the society to amend its bye-laws to restrict its election to the area of Taluka or District in accordance with Sec.13 of the Act. The Registrar can also invoke its authority for effecting corresponding change in the bye-laws under Sec.14 of the Act to restrict election to members within the Taluka and District. There is great force in the submission made on behalf of the respondents that the right of a member to vote or contest as member of a primary society for election to federal society is to be regulated by the concerned bye-laws of the federal society and if the bye-laws restrict the membership to

affiliated societies which fall within the Taluka, societies which fall outside the Taluka cannot claim right of vote and contest through their members or delegates. In this respect bye-law no.7(1) of Siddhpur Taluka Federal Cooperative Society and Patan Taluka Federal Cooperative Society are required to be seen, the copies of which were passed on to us in the course of hearing. Bye-law No.7(1) in both the Taluka level federal societies at Patan and Siddhpur prescribe eligibility qualification for a member to be an individual or society existing and operating within the Taluka concerned. If that is the position of the bye-law, any member society or individual, who is not within the Taluka, merely by continuance of its membership on the register with primary society can claim no right to participate in election to the federal societies.

17. After examining the scheme of the Act and the relevant bye-laws, the contention advanced on behalf of the petitioners, although attractive, is not acceptable. As we have stated above, the qualification, constitution and structure of the societies from State level down to Taluka level are based on the territorial revenue areas of District and Taluka. The Collector who is the Revenue Head of the District is empowered to hold the elections and his jurisdiction is limited to the District. Similarly, the Officers and Authorities on whom powers are conferred by the Collector for conducting elections have also territorial jurisdiction restricted to Talukas in which they are exercising the powers on behalf of the Collector. It is rightly pointed out on behalf of the respondents that if 27 primary cooperative societies, which no longer form part of Siddhpur Taluka and may seek affiliation to Unjha Taluka Federal Society, are allowed to vote and contest for election to Siddhpur Taluka, an imbalance would be created, adversely affecting the Federal Societies now falling in Unjha Taluka.

18. Keeping in view the envisaged structure of the Federal Societies in the Act, elections to them are required to be held only on the basis

of existing revenue areas. It is also argued on behalf of the petitioners that merely by change of territorial area of Talukas, membership of primary societies or federal society would not automatically cease under any provision of the Act. It is also submitted that the area of operation and business activities of a federal society has no direct connection with the revenue areas of a Taluka or District. In this respect, it is further contended that rights of individuals and societies as members of primary and federal societies cannot be adversely affected contrary to their rights provided in the bye-laws only because of change of territorial area of the Talukas under the Bombay Land Revenue Code.

19. On the last argument, we may clarify that a member validly admitted to a primary or federal society has several rights qua member. By virtue of membership or as a share holder, he has a right to get advantage of his membership in the trade and business of the society. He has also other rights as member to have business transactions with the society. But in our considered opinion, his rights in society qua member to vote and contest are dependent upon his being a member (individual or society) residing or having its operations within a particular territorial jurisdiction of Revenue Taluka. If a society as a member or an individual as member ceases to belong to a Revenue Taluka, they cannot claim right to vote or contest as member of that society, in election of Federal Society of that Taluka. The bye-law No.7(1) of Taluka Federal Society have to be applied on the situation obtaining on the date of election. The contention advanced on behalf of the petitioners cannot be accepted that the word "Siddhpur Taluka" mentioned therein should be read to mean "Siddhpur Taluka" as it existed on the date of framing of bye-law No.7(1) and prior to delimitation of Taluka in the year 1997. In our opinion, such a construction and interpretation of the provisions of the Act and the bye-laws would be destructive of the structure of cooperative societies based on revenue areas from apex down to district and taluka levels. Such interpretation will also adversely affect the elections to the federal

> society of other Talukas like Unjha within whose territorial area now the 27 cooperative societies fall. In the absence of an analogous provision as to be found in Maharashtra Act, on delimitation or change of area of Revenue Talukas, it is incumbent on the concerned societies to amend their bye-laws or for the Registrar to take suitable corrective or coercive action under Section 14."

9. A perusal of the abovereferredto observations made by the Division Bench of this Court makes it evident that the structure of the cooperative societies from State level down to Taluka level is based on the revenue areas. A District and Taluka Cooperative Society is required to have its membership within the District & Taluka. The elections to the societies, federal or otherwise, are required to be conducted by the District Collector on the basis of the revenue areas of Taluka or District concerned. While interpreting the provisions of Sections 4 and 6 of the Cooperative Societies Act, 1912, the Supreme Court in **Apex Cooperative Bank of Urban Bank of Maharashtra and Goa Limited vs. Maharashtra State Cooperative Bank Limited, (2003) 11 SCC 66**, has held that: "*in order to give societies a corporate existence without resort to the Companies Act, the Cooperative Societies Act, 1912 was enacted. Sections 4 and 6 thereof show that the Act essentially dealt with societies whose members were residing in the same town or village or group of villages or whose members were from the same tribe, class,*

caste or occupation. The object of the society had to be the promotion of interest of its members. This shows that the Cooperative Societies Act, 1912 was enacted for local societies.”

The abovequoted principles would be applicable to the provisions of Section 6 of the Act which, *inter alia,* provide that no society with unlimited liability shall be registered unless all the persons forming the society reside in the same town or village or in the same group of villages. Therefore, it is clear that the structure of cooperative societies from the State level to Taluka level is based on the revenue areas. Under the circumstances, it is not possible for this Court to accept the contention advanced on behalf of the petitioners that the revenue areas of Taluka and District have no relationships with the holding of elections to cooperative society of District or Taluka level. Rule 4 of the Rules provides preparation of provisional list constituency wise as provided in the bye-laws of the societies. It is not possible for this Court to hold that regardless of the change of the area of Taluka or District and without amending its bye-laws, a cooperative society of primary level can send its members for vote or election to a federal society at Taluka Level when such societies do not

fall within the revenue area of that Taluka. A member validly admitted to a primary or federal society has several right *qua* member. By virtue of membership or as a shareholder, he has a right to get advantage of his membership in the trade and business of the society. He has also other rights as member to have business transactions with the society. However, his rights in society *qua* member to vote and contest are dependent upon his being a member (individual or society) residing or having its operations within a particular territorial jurisdiction of Revenue Taluka. If a society as a member or an individual as a member ceases to belong to a Revenue Taluka, it/he cannot claim right to vote or contest as member of that society in election of Federal Society of that Taluka.

10. The contention that in view of the provisions of Section 28(3) of the Act, the names of the societies situate within Savarkundla Revenue Taluk1a could not have been excluded, has no merits. The provisions of Section 28 subsection (3) of the Act will have to be read subject to the provisions of the Rules. Section 28(3) of the Act provides that a society which has invested any part of its funds in the shares of another society, may appoint one of its members to vote on its behalf in the affairs of that

society, and accordingly such member shall have the right to vote on behalf of the first society. However, there is no manner of doubt that the right to vote will have to be determined on the basis of the provisions of the Rules and as the primary cooperative societies situate within Savarkundla Revenue Taluka were not the members of the Specified Society as on March 31, 2005 in terms of Rule 4(1) of the Rules, they have no right to vote at the elections to the committees of the Specified Society.

11. The plea that no cessation of the membership of the primary cooperative societies situate within Savarkundla Revenue Taluka has taken place in terms of Section 26 of the Act and, therefore, those societies could not have been prevented from exercising voting powers as conferred on them by Section 28 of the Act, also cannot be accepted. It is nobody's case nor the Election Officer has held that because primary cooperative societies situate within Savarkundla Revenue Taluka are not entitled to vote in the election to the Managing Committee of the Specified Society, they have ceased to be members of the Specified Society. As averred by the petitioners in the petitions, the primary societies situate within Savarkundla Revenue Taluka which are members of the specified society have continued to

exercise other rights available to them as members and enjoyed the benefits. However, right to vote at the election to the Managing Committee of the specified society is not governed by contract between the specified society and its members, but is governed by statutory Rules of 1982 and as provided in Rule 4(1) of the Rules, only those persons who are members of the specified society on the date of drawing up the accounts of the year immediately preceding the year in which election is due, are entitled to be included in the provisional list. The record shows that the petitioner No.1 in Special Civil Application No.5753 of 2006, i.e. Bhavnagar District Cooperative Bank Limited, itself had implemented the decision of the Division Bench of this Court in **Siddhpur Taluka Cooperative Purchase & Sales Union & Ors. (supra),** and, therefore, the amendment of the bye-laws was moved to enable the cooperative societies situate within Savarkundla Revenue Taluka to exercise the right of voting at the election to the committee of the specified society. It is not the case of the petitioners in Special Civil Application No.5753 of 2006, i.e. Bhavnagar District Cooperative Bank Limited, that the amendment made of the bye-laws pursuant to the decision rendered in **Siddhpur Taluka Cooperative Purchase & Sales Union & Ors. (supra),** was illegal or contrary to the provisions of the Act or

misconceived nor the record shows that any application was made by the petitioners in Special Civil Application No.5753 of 2006 to any authority to cancel the amendment made of the bye-laws, which were approved in the General Meeting of the Specified Society held on October 26, 2005 nor the record shows that another amendment of the bye-laws was moved by the Specified Society to restore the position prevailing prior to the resolution dated October 26, 2005 passed in its general meeting of the Board after the registration of the amendment of the bye-laws by the Registrar of the Cooperative Societies. It is well settled proposition of law that the bye-laws framed by a cooperative society as amended from time to time, are binding on the society and its members and neither the society nor its members can be permitted to act contrary to the bye-laws adopted by the society. In this case, the bye-laws of the Specified Society as amended by it in its General Board Meeting dated October 26, 2005 are in force as on today and the reliefs claimed by the specified society and its members, which are contrary to the bye-laws, cannot be granted. The conduct of the petitioners in Special Civil Application No.5753 of 2006 is such, which disentitles them from claiming the reliefs prayed for in the petition. On bifurcation of Districts and Talukas, the cooperative societies situate within Taluka cease to be

members having rights to vote or contest as member of that society in election of the Specified Society. Therefore, the bye-laws were amended by the Specified Society, which came into force with effect from October 26, 2005. The primary cooperative societies situate in Savarkundla Revenue Taluka were not the members of Bhavnagar District Cooperative Bank Limited, which is a Federal Society for the purpose of claiming right to vote or contest as member of that society as on March 31, 2005 and, therefore, the decision taken by the Election Officer to exclude their names from the Voters' List, cannot be regarded as illegal so as to warrant interference of this Court in the instant petitions filed under Article 226 of the Constitution.

12. The plea that the jurisdiction under Rule 6(2) of the Rules could not have been exercised by the Election Officer on the basis of one application submitted by Mr.Sutariya, is devoid of merits. It may be stated that the names of all the primary cooperative societies situate in Savarkundla Revenue Taluka were included in the Voters' List of the Federal Society, i.e. the Bank. That action was contrary to the decision of the Division Bench of this Court. Therefore, Mr.Sutariya had filed objections and requested the Election Officer to exclude the names of those primary cooperative societies from the Voters' List

of the Specified Society. After considering the facts as well as the contents of the application filed by Mr.Sutariya and the provisions of law, the Election Officer has taken the decision to exclude the names of the primary cooperative societies situate in Savarkundla Revenue Taluka. For the purpose of bringing it to the notice of the Election Officer that the names of primary cooperative societies situate in Savarkundla Revenue Taluka were wrongly included in the Voters' List of Federal Society, it was not necessary for Mr.Sutariya to file separate applications against ninety-one cooperative societies. What is contemplated by Rule 6(2) of the Rules is that the claim or objection has to be lodged by a petition, which has to be presented to the Collector. The claim and/or objection was raised by Mr.Sutariya by filing a petition, which cannot be termed as contrary to the provisions of Rule 6(2) of the Rules. Therefore, no relief can be granted to the petitioners on the basis that separate petitions in case of ninety-one primary cooperative societies situate in Savarkundla Revenue Taluka were not filed and the grievance and/or objection was raised against their inclusion in the Voters' List by one petition.

13. The plea that the order passed by the Election

Officer is not supported by the reasons and, therefore, should be set aside, has no substance. A bare look at the impugned order makes it very clear that Mr.Sutariya had lodged his objections by filing petition dated March 16, 2006. After lodging of the petition, the persons concerned were heard and the documents as well as legal provisions were taken into consideration by the Election Officer. The impugned order further makes it evident that it was noticed by the Election Officer that the primary societies situate within Savarkundla Revenue Taluka were not the members of the Specified Society as on March 31, 2005 whereas the amended bye-laws were approved/sanctioned by the Specified Society in its General Meeting dated October 26, 2005 and, therefore, the primary cooperative societies situate within Savarkundla Revenue Taluka became the members of the Federal Society, i.e. the Bank, with effect from October 26, 2005 for the purpose of voting and contesting in the election of the Specified Society as contemplated by the Rules. In view of these conclusions, the Election Officer has passed the impugned order. The reasons, which are necessary for coming to his conclusion, are recorded by the Election Officer in the impugned order. The Election Officer is not supposed to write a judgment as a Court of Law is expected while deciding a matter judicially. As the necessary reasons have been

recorded by the Election Officer in the impugned order, the same cannot be liable to be set aside on the ground that it is not supported by the reasons. Therefore, this plea fails and is not accepted.

14. As a result of the aforesaid discussion, this Court is of the opinion that there is no merits in any of the petitions filed and they are liable to be dismissed. Therefore, all the petitions fail and are dismissed. Rule is discharged in each petition. There shall be no orders as to costs.

[J.M.PANCHAL, J.]

[BANKIM N. MEHTA, J.]

Rajendra